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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 VICTOR TAGLE,

10 Plaintiff,

11 v.

12 STATE OF NEVADA et al.,

13 Defendant.

Case No. 2:18-cv-00814-RFB-GWF

ORDER

14 **I. DISCUSSION**

15 Plaintiff is a prisoner proceeding *pro se*. Plaintiff has submitted a document
16 entitled “tort action” and an application to proceed *in forma pauperis*. (ECF Nos. 1, 1-1).
17 However, on at least three (3) occasions, the Court has dismissed civil actions
18 commenced by Plaintiff while in detention as malicious or for failure to state a claim
19 upon which any relief may be granted.¹

20 Pursuant to 28 U.S.C. § 1915(g), “if [a] prisoner has, on 3 or more prior
21 occasions, while incarcerated or detained in any facility, brought an action or appeal in a
22 court of the United States that was dismissed on the grounds that it is frivolous,
23 malicious, or fails to state a claim upon which relief may be granted,” he may not
24 proceed *in forma pauperis* and, instead, must pay the full \$400.00 filing fee in advance
25 unless he is “under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

26 ¹ See *Tagle v. State of Nevada et al*, 2:15-cv-02083-RCJ-GWF (dismissed for failure to
27 state a claim); *Tagle v. State of Nevada et al*, 2:15-cv-02358-MMD-PAL (dismissed for
28 maliciousness and failure to state a claim); and *Tagle v. State of Nevada et al*, 2:16-cv-
00852-JAD-VCF (dismissed for maliciousness and failure to state a claim). The Court
takes judicial notice of its prior records in the above matters.

1 In his "tort action," Plaintiff sues various defendants for events related to his
2 arrest, incarceration, mail tampering, and disciplinary segregation. (See *generally* ECF
3 No. 1-1). After reviewing these allegations, the Court finds that the allegations fail to
4 plausibly allege that Plaintiff is in imminent danger of serious physical injury. See
5 *Andrews v. Cervantes*, 493 F.3d 1047, 1055 (9th Cir. 2007) (holding that the exception
6 to § 1915(g) applies if the complaint makes a plausible allegation that the prisoner faced
7 imminent danger of serious physical injury at the time of filing). As such, Plaintiff must
8 pre-pay the \$400.00 filing fee in full.

9 **II. CONCLUSION**

10 For the foregoing reasons, IT IS ORDERED that Plaintiff's application to proceed
11 *in forma pauperis* (ECF No. 1) is denied.

12 IT IS FURTHER ORDERED that this action will be dismissed without prejudice
13 unless Plaintiff pays the \$400.00 filing fee in full within twenty-one (21) days from the
14 date of this order.

15 IT IS FURTHER ORDERED that the Clerk of the Court shall send Plaintiff two
16 copies of this order. Plaintiff shall make the necessary arrangements to have one copy
17 of this order attached to the check paying the filing fee.

18 IT IS FURTHER ORDERED that the Clerk of the Court shall retain the "tort
19 action" (ECF No. 1-1) but shall not file the document until the matter of the filing fee is
20 resolved.

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22 DATED this 29th day of May, 2018.



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24 RICHARD F. BOULWARE, II
25 UNITED STATES DISTRICT JUDGE
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